



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2005

Mr. Tracey L. Jennings
Attorney at Law
507 Lindsey
Bowie, Texas 76230

OR2005-03984

Dear Mr. Jennings:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 223806.

The City of Bowie (the "city"), which you represent, received a request for information regarding a specific investigative report. You claim that the requested information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information is subject to section 552.022 of the Government Code. This section provides, in pertinent part, as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted information consists of a completed investigation made of, for, or by the city into a city department and its personnel. Therefore, as prescribed by section 552.022, the city must release the submitted information unless it

is confidential under other law or excepted from disclosure under section 552.108 of the Government Code. You do not raise section 552.108 in this instance, and instead you argue that the submitted information is excepted from disclosure under section 552.111. However, this exception is a discretionary exception under the Act and does not constitute "other law" for purposes of section 552.022. *See* Open Records Decision No. 470 at 7 (1987) (statutory predecessor to section 552.111 may be waived); *see also* Open Records Decision No. 522 (1989) (discretionary exceptions in general). Accordingly, the city may not withhold any of the submitted information under section 552.111 of the Government Code.

We note, however, that the submitted information contains Texas motor vehicle record information. Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a). Accordingly, the city must withhold the Texas motor vehicle record information we have marked. As you claim no other exceptions and the remaining submitted information is not otherwise confidential by law, the city must release the remaining information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body

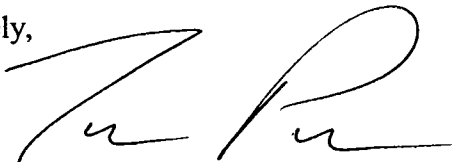
will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James A. Person III
Assistant Attorney General
Open Records Division

JP/sdk

Ref: ID# 223806

Enc. Submitted documents

c: Mr. Ernest E. Largent
c/o Tracey L. Jennings
507 Lindsey
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(w/o enclosures)